

**WILLIAMSBURG CITY COUNCIL
SEPTEMBER 11, 2008
MINUTES**

The Williamsburg City Council held its regular monthly meeting on September 11, 2008, at 2:00 p.m., in the Council Chambers of the Stryker Building.

ATTENDANCE

Present were Ms. Zeidler, Ms. Knudson, and Messrs. Haulman, Freiling and Braxton. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Attending: Deputy City Attorney Workman, Economic Development Manager DeWitt, Communications Specialist Kate Hoving, and Department Heads Hudson, Serra, Weiler, Walentisch, and Yost. Mr. Clayton arrived late. Assistant City Manager Miller and Planning Director Nester were out of town.

CALL TO ORDER

COUNCIL MINUTES

Mr. Freiling Moved That City Council Approve the Minutes of August 11 and 14, 2008, and the August 23, 2008 Retreat. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None

Matters of Special Privilege

Excellence in Service to Williamsburg Award presented to Robbi Hutton, Parks and Recreation

Mayor Zeidler said that this is a special award because the recipient was nominated by her coworkers and peers. She asked Robbi Hutton to join her at the podium where she read the recognition of her work and presented her with the Excellence in Service to Williamsburg plaque.

Ms. Hutton thanked the Mayor and Council for the award. She thanked her colleagues for their hard work and dedication.

Public Hearings

Charlton's Coffeehouse License Agreement

Reference for this item was Mr. Tuttle's report dated August 21, 2008, and a copy of the notice advertising the public hearing.

Mr. Phillips said that the city would receive offers for a forty-year license agreement for the front porch and sidewalk that will extend over the property line and encroach on the right-of-way of Duke of Gloucester Street. State Code requires that when the right-of-way is used by a private entity, the request for bids and use of the space must be advertised.

Mr. Freiling disclosed that he is an employee of the Colonial Williamsburg Foundation and will not comment on this matter.

Mayor Zeidler opened the public hearing.

Victoria Gussman, Director of Property Planning and Management, asked Council to defer this item for a month or two in order for Colonial Williamsburg to work out some issues.

Mr. Phillips commented that Council could defer for not more than 90 days.

Mayor Zeidler closed the public hearing.

Mr. Haulman Moved That City Council Defer the matter of the Charlton's Coffeehouse License Agreement for Not More Than 90 Days. The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None

Abstain: Mr. Freiling

PCR #08-020: Transitional screening buffer requirements for the B-3 District, Proposed Ordinance #08-22

Reference for this item was Mr. Nester's report dated September 11, 2008. Mr. Nester reviewed the information in his report. City Council previously approved the B-3 text changes, but after review of the proposed transitional screening buffer requirements, referred the buffer requirements back to the Planning Commission for further study. On a map of the city, he pointed out the areas that would be subject to the screening buffer regulations. Planning Commission discussed four options for the transitional screening buffers in the B-3 District—keeping the buffer at 35 feet, 10 feet plus the required yard, 20 foot plus required yard, and a buffer based on building height. Planning Commission recommended the second option, a ten-foot transitional buffer plus required side and rear yards.

Mayor Zeidler opened the public hearing.

Mr. David Kranbuehl, Harrison Avenue, said the big question is how the required additional large plantings would be handled. Dumpsters are a problem in parking lots and should not be allowed near the buffer area; they are ugly and smell, although necessary. What role will the neighbors have before the buffer is approved?

Helen McConnell, 16 Bayberry Lane, spoke in opposition to reducing the buffer from 35 feet to 10 feet. The Planning Commission seemed to be only concerned about visibility and not concerned about noise, odors, delivery trucks, and loss of privacy. These protections were put into place for a good reason and for citizen protection. We need to keep our standards.

No one else wished to speak.

The hearing was closed.

Mr. Nester explained that natural screening and other screening could be used in combination within the ten feet. The regulations for dumpsters require that they must be 25 feet from the property line and enclosed when located next to a residential area. The Planning Commission would review the dumpster as part of the Site Plan review process, which includes notification of neighbors. Some dumpsters predate the current zoning regulations and they are grandfathered. If a property should be redeveloped, the dumpster would be located according to current zoning regulations.

Mr. Freiling said the city has spent a lot of time on zoning classification and appropriate guidelines, and separating intense uses and residential uses. He was concerned about making a blanket change to create a by-right opportunity for the commercial side but create a hardship on residential. He was concerned about a commercial presence close to residential. He could not support the Planning Commission's recommendation, but would consider Option 4 where there is a graduated buffer to provide more protection. Mayor Zeidler noted that the reduced buffer makes sense for some locations with space issues and could inhibit improvements to properties. She understood Mr. Freiling's caution. Mr. Haulman said Option 4 provides for a variety of sizes of property and allows flexibility and variation in the buffer.

Mr. Nester said these standards apply to this one B-3 zoning (as reconfigured in the Comprehensive Plan). He did not envision other B-3 District being created at this time. If so, the transitional screening buffer requirements could be changed also. Mr. Nester explained the screening buffer requirement differences between Option 2 and Option 4. Mr. Nester favored Option 2 and then Option 4.

Mr. Nester explained the 10-foot buffer would allow more parking to the rear and the building closer to the street with the B-3 setback of 15 feet. Mr. Freiling noted that Option 4 with graduated setback may cause the parking to be located to the rear with a limited lot.

The mayor commented that Council is trying to do the best for the city without unintended consequences.

Mr. Haulman Moved That City Council Adopt Proposed Ordinance #08-22C (Option 4), An Ordinance Amending Chapter 21, Zoning, Article III, Division 10, General Business District B-3, Section 21-357 (4), Pertaining to Transitional Screening Buffers. The Motion Was Seconded by Ms. Knudson.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None (See Adopted Ordinance #08-24)

PCR #08-015: Request of Colonial Penniman LLC to Reduce the Minimum Size for a PDR District., *Proposed Ordinance #08-23;*

and

PCR #08-016: Request of Colonial Penniman LLC to Rezone 3.15 Acres Between Capitol Landing Road and Page Street from RS-2 to PDR, *Proposed Ordinance #08-24*

Reference for this report was Mr. Nester's report dated September 11, 2008. Mr. Nester reviewed the information in his report about the two related cases. Capitol Landing Green is a residential development of 16 dwellings unit proposed on 3.15 acres on Page Street and Capitol Landing Road. The two large existing homes on the property will be moved and incorporated into the new development. It is proposed to be rezoned from RS-2 to PDR, which allows a mixture of housing types and is needed to accommodate the two duplex dwellings.. A Master Plan is required in accordance with the rezoning. Colonial Penniman LLC is asking for a reduction in the minimum project size to three acres in this PDR (RS-2 District), a reduction from the 20 acres now required. Mr. Nester reviewed the PDR requirements.

Mr. Nester reviewed the specifics of the project design. He reviewed the Master Plan for the duplexes and single-family homes proposed. He explained the project layout including street design, parking, sidewalks, green space, fencing, and trees to be saved. An aerial photograph showed the project meets the scale and character of the neighborhood.

The conceptual architectural plans were reviewed and approved by the ARB and require final approval in accord with the conceptual plans approved as part of the rezoning. The density of 5.9 dwelling units per net acre is an appropriate scale of development for the downtown area and is a good fit for the goals of the Comprehensive Plan. This rezoning is important to the future of this transitional area.

Planning Commission held a public hearing on this matter and recommended that Council adopt the proposed ordinance to amend the PDR District to reduce the minimum project size to five acres for RS-1 Districts and three acres for RS-2 and RM-1 Districts, as detailed in the proposed ordinance, and that Council approve the rezoning with conditions as outlined in the Proposed Ordinance #08-24 (Mr. Nester reviewed the conditions).

Ms. Knudson referenced the letter of concern from Sue and Dick Lake asking about the condition of the two houses to be moved. Mr. Nester said that the developer had an assessment of the houses and there should be no problem in moving the homes.

Mr. Freiling asked about the fence and sidewalk. Mr. Nester said a private sidewalk will go through the property, but there will be no sidewalk on the interior street. The proposed fence design along the property requires ARB review and approval.

Mr. Nester said the street will function as a two-way street and there should be no problem in using either entrance/exit at Page Street.

Mr. Nester said it made sense to allow for options in innovative design smaller in-town lots rather than requiring large lots to provide for flexibility. He saw no problems with reducing the PDR requirement.

Mayor Zeidler opened the public hearing.

James H. Bennett, represented Colonial Penniman LLC, thanked Mr. Nester for his presentation, and clarified that the two existing houses can be moved, but the chimneys will have to be redone. If possible, the other existing homes will be relocated or offered to a housing partnership type organization. They are open to suggestions regarding the proposed fencing. Gary Bolling, architect, was present. The homes are modest in size and in character with existing homes on Capitol Landing, and they hoped will be attractive to buyers. There will be a Homeowners Association for the community and the private street. Existing trees will be preserved if possible and enhanced with additional plantings. He hoped that this PDR project has merit enough to warrant Council's approval.

Stuart Goddin 715 Goodwin Street, asked about the ability to aggregate small properties. It would not be difficult to reach the three acre threshold and does the city want to promote this to have more PDRs in town. Zoning changes seem to be driven by a particular proposal. The Comprehensive Plan process reflects the city's vision. Both cases should be looked at separately. Why not take a forward look at zoning.

Mr. Dick Lake, 3030 Capitol Landing Road, addressed Council about his concerns. For safety reasons, he thought that the driveway of the development farther away from the Page Street bridge should be considered as the only exit. It appears that the driveway is extremely close to his property line. The existing homes to be moved should be upgraded and brought into character with the proposed new homes. This area could be ripe for investment with a large number of rentals. He asked if this could be regulated.

No one else wished to speak. The hearing was closed.

Mr. Haulman felt this development fit with the city's vision for that part of town and the change to the PDR District provides for small pieces of property to be developed. The size creates opportunity for innovative housing development in a city that is pretty much built out. Ms. Knudson agreed and felt it was appropriate for the area. She felt that the site plan review would take care of Mr. Lake's concerns.

Ms. Knudson agreed with Mr. Goddin, but you cannot plan ahead of time because things change. Some rezonings are considered too radical for their time.

Mr. Braxton concurred with his colleagues. The Site Plan Review Committee has reviewed this plan for emergency access on the streets. He thought the street should be one-way.

Mr. Freiling commented that Council spent so much time approving and implementing the Comprehensive Plan and the associated rezonings. One of the criticisms Council heard from citizens during the process was why rezone; why not wait for a project. Council tried to do the best of both and set the vision the best way it could. Not everything can be envisioned. This is a great plan that needs some flexibility in the guidelines for it to happen. He understood the concern about lowering the size in the PDR, but there are multiple reviews in place. He was concerned about the driveway and access onto the through street and encouraged staff to review the driveway. He suggested that shrubbery be used instead of the proposed fencing. The streetscape gives a sense of a large front yard and takes

advantage of the property's acreage.

Mayor Zeidler appreciated Council's discussion and comments, and added that she liked that two homes will be saved as well as the trees. She thought that this project could be a great model for other developments, and appreciated that the existing homes will be reused if possible.

Mr. Freiling Moved That City Council Adopt Proposed Ordinance #08-23, An Ordinance Amending Chapter 21 Zoning, Article III, Division 15, Planned Development Districts PDR and PDD, Section 21-481(c), Pertaining to the Minimum Size of a PDR District. The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None (See Adopted Ordinance #08-25)

Ms. Knudson Moved That City Council Adopt Proposed Ordinance #08-24, An Ordinance to Rezone 3.15 Acres at 305, 307 AND 401 Capitol landing Road and 302, 304 AND 306 Page Street from RS-2 to PDR. The Motion Was Seconded by Mr. Haulman

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None (See Adopted Ordinance #08-26)

PCR #08-018: Request of Prometheus Investments, Inc., to rezone 2.09 acres on Richmond Road (Southern Inn property) from B-3 to LB-2, *Proposed Ordinance #08-25 and*

PCR #08-019: Request of Prometheus Investments, Inc., for a special use permit to construct two restaurants and 24 condominiums.

Reference for this item was Mr. Nester's report dated September 11, 2008. Ms. Murphy said that these proposals are to rezone and redevelop the Southern Inn property on Richmond Road. It is proposed to construct two condominium buildings to the rear of the property with two restaurants and commercial and office space on the property. To allow the development, a rezoning from B-3 General business to LB-2 Limited Business Neighborhoods District is proposed. The LB-2 zoning requires a special use permit for this proposal. The property is designated as General Commercial land use in the 2006 Comprehensive Plan and supports mixed use. The property is located in a Corridor Protection District, which requires review by the ARB.

Staff has worked with the application on the landscaping and a conceptual landscape plan has been submitted. The applicant has proposed use of impervious surface for the parking and to retain roof drainage waters to be used for irrigation. The Planning Commission recommended approval of the rezoning from B-3 to LB-02 and recommended approval of the special use permit with eight conditions. Ms. Murphy reviewed a slide outlining the conditions. She noted that the applicants and their Attorney are present.

Ms. Murphy explained the surface on the parking lot will be porous concrete with a discharge system. The reason for the 1,000 square foot minimum for a restaurant in this zoning district was to establish a threshold for the size and type of restaurant.

Mayor Zeidler opened the public hearing.

John Tarley, Attorney, representing Prometheus Investments: Mr. Tarley was pleased to present this attractive and long awaited redevelopment of this property. The goal for this property was to turn something old into something new. This fits the goals of the Comprehensive Plan. Mr. Tarley introduced Demetrios and Nicholas Florakis, Dell Weiss, Guernsey Tingle Architects, and Steve Romeo of Landmark Design (site development).

Mr. Romeo presented a sample of the impervious surface material for surface treatment and photographs of the low impact development materials and a rain garden. Development techniques have changed with more attention to the environment. He described the techniques used for this redevelopment. Ninety percent of the materials from demolition of the Southern Inn property were recycled. The methods and techniques for this project may set a trend for new projects and bring properties of this type into compliance with today's regulations and make a more sustainable development that will outlive what was there before.

Mr. Tarley concluded by saying that this project will provide 24 condominium units in the \$300,000 price range and four commercial units. Redevelopment of this property is identified as a priority in the Comprehensive Plan. It is in character with existing and proposed uses in adjacent areas. The parking lot will sustain EMS vehicles. This project recycles materials, retains rainwater, provides an attractive streetscape, and the design and landscape plan will encourage appropriate development in adjacent properties. He asked Council to approve the rezoning and SUP as outlined.

Mr. David Kranbuehl, Harrison Avenue, said that he was speaking for other residents in the area from Braxton Court to Matoaka Court. Demetrios is a neighbor and friend and staff has done a fantastic job on this project. There are two themes to get across. The most important : the goal for the city is a higher percentage of owner-occupancy; 50% is recommended by the Comp Plan. What is Council doing about that? Where is the plan? Owner-occupied residences create stability. The other theme is "process." It is not working the way it should.

He reported that a group of citizens met and discussed several points:
There is no meaningful dialogue for the SUP process; city management and the developer relationship does not involve citizens and favors the developer; and there is no dialog between the neighborhood and the developer

This project caused tension in the community. A study financed by the city said that people want owner-occupied development on this project. Change is needed in communication and dialog. He reviewed a series of neighborhood meetings that were held. They agreed they wanted to have dialog to explore various concerns they had. They support the rezoning of this property. The 1,000 square foot limit on the restaurant makes no sense. All of the work on this project has been terrific. Neighbors are concerned about who will be living there. The developer wants to move forward, but we need more time to explore options and have more dialog.

There are issues concerning the balconies and financing issues. They wanted to take this to the Neighborhood Council and wanted more time to get other citizens involved. They want rental restrictions on condominiums. Mr. Kranbuehl asked for answers to the following questions:

what are the project expectations regarding the owner-occupied sales? The VA Condo Association states that a main issue is the percentage of the number of rentals. It could affect owner financing. How do we get rental owners to comply with city regulations? We need a mechanism to know that this development will maintain a residential atmosphere. Is there a possibility that this project will end up with student rentals and absentee landlords? Action should be delayed on this project, understanding that this will be approved, until we can formally or informally agree and understand where this project is going.

Jim McCord, Richmond Road, stated that on the whole this is a good project. They are concerned about these becoming rental properties. We need to achieve stability and the Planning Commission and Council need to explore this. Many neighborhoods are already 60% rentals. He asked that before Council approve this project, to work with Prometheus to see if Covenants could be developed to require the condominium association be created to ensure that these properties do not turn into rentals and are owner occupied.

Mario Kokolas, Vice-Chair of the EDA, said that the EDA enthusiastically and unanimously supports this redevelopment project. This property was a source of aesthetic concern for quite some time. This property owner took advantage of the city's demolition program to provide financial assistance to offset costs to remove a structure. They looked forward to the redevelopment of this site.

Stuart Goddin, 715 Goodwin Street, supported Mr. Kranbuehl's comments. Council is on record saying that owner-occupancy is critical and important and this is a critical neighborhood. This is the opportunity to achieve something. Council should look at this SUP and what they want in a proposal. He is worried about the rental issue. Council should give this more time for discussion and perhaps for covenants to be established for this development. A right balance is critical. Let's talk about it.

Craig Reeves, 600 Richmond Road and 616 College Terrace, was pleased about the demolition of the old Tioga Motel. Now there is the opportunity to redo a second property. The plans to redevelop this property are awesome. He was not in favor of deed restrictions or the time extension.

Matt Beato, student at the College, stated the old Tioga Motel and Southern Inn property did not fit here. Progress has been made on the Tioga and this is another opportunity, especially about the new restaurants that fit with the neighborhood, are in walking distance of the college, and fits with student friendly businesses as stated in the Comp plan. In his opinion, college students cannot afford these condominiums or easily move into them. Therefore, rental restrictions are not necessary. They are not targeted toward college students. He does not favor deed restrictions. Move this property forward to get rid of eyesores and make this area somewhere people want to go.

Henry Coleman, 606 College Terrace, favored this development. He watched the Southern Inn decline over the years and has seen a constant, gradual shift from residential owner occupancy to rental occupancy. Student families have bought properties. He did not think the price of the condominiums would discourage student rentals. In the long run, the property could have problems with maintaining its appearance and perhaps even a loss in value. Rental property is a prime necessity in this community and will be until the need is satisfied by the major force that is driving that need. A covenant that provides for family ownership of the property would go a long way to maintaining this as a desirable area for people of all ages.

David with the College of William and Mary stated that rentals are not just a student issue. Many families rent before they purchase which helps in the transition to becoming a permanent Williamsburg resident. .

No one else wished to speak. The hearing was closed.

Council members discussed the project.

Mr. Haulman said this was a great opportunity for people to live downtown and provides for student oriented businesses. This property is more connected to the shopping center than the neighborhoods, and creates some balance in this area. He liked the owner's sensitivity to the environment. With the developer being part of this neighborhood, he believed there would be more dialog with neighbors. He assumed this would be the best.

Mr. Phillips said that in order to restrict rentals, the Homeowners Association would have to be structured so that it could decide how many votes were needed to place a restriction on property rights. He was not sure about the experience with the HOA at Holly Hills Carriage Homes in trying to restrict rentals, but would not be surprised if it failed.

Ms. Zeidler noted that the city has no right to force the developer to put this owner-occupied restriction. Mr. Phillips said the developer would have to proffer this restriction. It could be put in as a condition of an SUP but the city would not enforce the restriction. The HOA would have to enforce the restriction, not the city.

Mr. Freiling clarified that the Condominium Association decided not to enforce a requirement placed by the city on the SUP, it is only accountable to itself.

Mr. Phillips confirmed that a condominium development is required to have an association by the state.

Mr. Braxton supported this development for condominiums. Council cannot mandate anything. Mr. Phillips said that zoning restrictions have not gone far enough to say you cannot rent your property.

Mr. Freiling said this issue is more about how the property will be maintained and the environment in the community. He hoped that people will not be discouraged from renting, but that people will be concerned about their investment and maintaining the property

appropriately. Rentals here may take additional pressure off of single family neighborhoods near the campus. Not all renters are students. He thought the prior proposed development for this project was that it was too dense with too little parking, was designed with 4 bedrooms per unit (which goes against the three-person rule), and solely residential in an area designed to have a commercial aspect. This current proposal takes care of the density issue, has more parking, no four bedroom issue at all, and is a mixed use development. This redevelops an aesthetically undesirable site and it sets a new standard for redevelopment in the community.

Mayor Zeidler supports this redevelopment project. She remembers many years ago people asking what she would do about the Southern Inn property. She understood the concerns about what this might become, but agrees that we have a developer who is a member of this community and is accessible. We have no ability as a Council to enforce any condition on the SUP regarding rental restrictions.

Mr. Coleman requested to speak. Mayor Zeidler said the public hearing was closed, but allowed his comment.

Mr. Coleman noted that the development at the end of South Henry Street changed their association guidelines and limited the number of rentals. They thought this would preserve their neighborhood. He understood that the city could not enforce restrictions but it takes a lot of effort for a homeowners association to put restrictions in place.

Mr. Knudson thanked Mr. Freiling for his comments; she agreed.

Mr. Haulman Moved that City Council Adopt Proposed Ordinance #08-25, An Ordinance to Rezone Approximately 2.09 Acres at 1214, 1216 AND 1220 Richmond Road from B-3 General Business District to LB-2 Limited Business Neighborhood District. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None (See Adopted Ordinance #08-27)

Mr. Haulman Moved that City Council Approve the Request of Prometheus Investments, Inc., for a Special Use Permit to Construct Two Restaurants and 24 Condominiums at 1214, 1216, and 1220 Richmond Road (Southern Inn property) As Recommended by the Planning Commission. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None

Monthly Financial Statement

The Financial Report was received and ordered filed.

Room and Meal Tax: Mr. Haulman noted that the more appropriate comparison of room and

meal tax would be the 2006 rather than 2007. Mr. Freiling noted that the national economical situation is also impacting our revenue figures.

Monthly Departmental Operating Reports

The Monthly Departmental Reports were received and ordered filed.

City Manager Reports

Authorization Regarding Employee's Contribution to Virginia Retirement System, Proposed Resolution #08-16

Reference for this item was Mr. Tuttle's report dated September 4, 2008. Mr. Tuttle explained that the Proposed Resolution affirms the City's practice of paying both the employee and employer contribution to VRS, and on a pre-tax basis. An IRS ruling requires a formal resolution. It was recommended that City Council adopt Proposed Resolution #08-16.

Ms. Knudson Moved That City Council Adopt Proposed Resolution #08-16, A Resolution Affirming the Authorization to Pick-up the Employee's Contribution to VRS for City of Williamsburg. Employee Code 5521 Under Section 414 (h) of the Internal Revenue Code. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None (See Adopted Resolution #08-16)

Environmental Sustainability Policy

Reference for this item was Mr. Tuttle's report dated September 8, 2008. Mr. Tuttle reported that the city is close to submitting the Extraordinary Environmental Enterprise (E4) certification with the Virginia Department of Environmental Quality. It is compatible with the Virginia Municipal League Green Government Certification process.

Council members concurred in it support of this resolution.

Mr. Freiling Moved That City Council Adopt Proposed Resolution #08-17, A Resolution Setting Forth an Environmental Sustainability Policy for the City of Williamsburg. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None (See Attached Resolution #08-17)

Municipal Building Renovation and Expansion—Architectural and Engineering Services

Reference for this item was Mr. Tuttle's report dated September 8, 2008. Mr. Tuttle said that four proposals were received in response to the solicited architectural and engineering services for the project. A city committee evaluated the proposals, and based on that evaluation, top-listed Guernsey Tingle Architects. They were invited to enter into fee and contract negotiations. A fixed fee of \$599,500 was negotiated.

The construction team would be composed of Guernsey Tingle as project architects, the TAM Consultants as structural engineers, JP Harvey Engineering Solutions as mechanical/electrical engineers, and AES as site engineers. Guernsey Tingle recently completed the master plan for the project.

Mr. Phillips reviewed the proposed AIA agreement and noted some changes were made which were acceptable to the architects.

The project schedule calls for construction to start in August 2009 with project completion in October 2010. The recommendation was for Council to authorize the city to enter into the agreement subject to the approval of the City Attorney.

Mr. Freiling Moved That City Council Authorize Entering Into the Agreement with Guernsey Tingle Architects for Architectural and Engineering Services for \$599,500 to Construct the Municipal Building Renovation and Expansion Project, Subject to the Approval of the City Attorney. The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None

Authorization to Proceed with School Construction

Reference for this item was Mr. Tuttle's report dated September 9, 2008. Mr. Tuttle reported that Council discussed the schools construction project at the September 8 Work Session. He recommended Council authorize proceeding with bidding the project.

Mr. Braxton Moved that City Council, Confirming Funding Allocated in the City's FY 09 Capital Budget and Planned in the FY 09-13 Capital Improvement Program, Authorize Proceeding with Bidding the Construction Contracts for the Fourth Middle School and Ninth Elementary School; Subject to Like Action by the James City County Board of Supervisors. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None

Swimming Pool Regulations, *Proposed Ordinance #08-26*

Reference for this item was Mr. Tuttle's report dated September 3, 2008. Mr. Nester explained that proposed ordinance amends the City Code Section regulations for swimming pools. These recommended changes will bring city regulations up to date and help to address situations where apartment with swimming pools are close enough to the apartments so as not to require dressing rooms and shower facilities. Approval of the proposed ordinance was recommended.

Mr. Braxton Moved That City Council Adopt Proposed Ordinance #08-26, An Ordinance Amending Chapter 17, Swimming Pools. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None (See Attached Ordinance #08-28)

Proposed Topics for City's 2009 Legislative Agenda

Reference for this item was Mr. Tuttle's report dated September 4, 2008. Mr. Tuttle said that it is time to start work on the city's Legislative Agenda for the 2009 General Assembly session. One important item will be the city charter amendment that Mr. Phillips is preparing. Some items on the agenda are repeated every year. Next month a draft agenda will be ready for Council review.

Council members discussed possible items for the list. Mayor Zeidler noted the issue raised by former Council member Chohany regarding the penalty for firing a gun at law enforcement and auxiliary police officers. Mr. Freiling noted that the voting item was removed from last year's list at the request of the President of the Student Assembly at the College.

City Attorney Report

City Charter Amendment, Authorization to Advertise Public Hearing for October 9, 2008

Mr. Phillips noted that Council discussed the proposed charter changes at the September work session. Section 22.6 was changed to reflect Council's practice of having the Council representative term on the Housing Authority to coincide with their Council term. Some "bureaus" are now referred to as "departments and others to "divisions."

Mr. Haulman Moved that City Council Authorize the Clerk of Council to Advertise the Public Hearing for October 9, 2008. The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None

NEW BUSINESS

Appointments to Boards and Commissions

Mr. Haulman Moved That City Council Appoint Mr. Gregory Ballentine to the Board of Zoning Appeals, effective immediately, to fill the unexpired term of Mr. David Lamson, to expire December 31, 2011. The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None

City Council Packets: Ms. Knudson said that she would like to see a reduction in the amount of paper in the packets. Council members concurred that they will receive only the minutes and not attachments to the minutes. The Mayor noted that the city does recycle.

Waller Mill Reservoir:

Mr. Clayton reported that the reservoir level was down 22 inches. Recent rains brought 2.8" of rain. Consumption has declined. The city will continue to monitor the situation into the fall.

OPEN FORUM

Mayor Zeidler asked for comments.

Chris Canavos, owner of Capitol Landing Pancake House, 802 Capitol Landing Road and Country Inn Suites, addressed Council about the challenges of the hospitality industry. He discussed the dramatic drop in room, meal, and sales tax revenues over the past summer, the lowest in years. The Smith Travel Report indicates Williamsburg is under performing what Smith Travel reported for the city. At what point does Council determine that this is as problem and they are going to help out and do something about it?

David, College of William and Mary, thanked Mr. Haulman for bringing up the student voting issue. Last year the voting issue was struck from the Legislative Agenda, and he would appreciate it being on this year's Legislative Agenda. The General Assembly needs to know that this is an issue that is pressing and important to many people.

Mayor Zeidler responded that there was no miscommunication. Council was specifically asked by the then President of the Student Assembly to remove the voting issue from the Legislative Agenda. Council was reluctant to do that because of the equality issue and constitutional issue, but we were asked again by the same young man to remove it.

David responded that the President misunderstood. He thought that Council was asking the General Assembly to create a standard for the state, and he wanted the standard to be that students get to vote in their college town. He was excited to see the voting issue back on the Legislative Agenda.

Pat Bell, Executive Director of the Hotel/Motel Association, provided a brief overview of the industry. She said that the Hotel Association has fared fairly well for the first eight months of the year. Room nights were down three percent from 2007, just a shade more than the national average in occupancy down 2.5%. The WADMC campaign has had a positive impact and has influenced the web market. February was a strong month and boosted numbers. She provided members of Council with graphs of annual hotel occupancy and comparisons with regional and state numbers. Occupancy for 2008 is at an all time low and she fears it would drop even more. Everyone realized the economic forces that are against them this year. Hoteliers and restaurateurs have expressed their concerns to Council. She was not looking for Council or staff to provide solutions, but just to recognize the industry problem and that Council be involved in the solution.

Mr. Patel, 216 Parkway Drive, said that this was one of the worse seasons they have had. We are all in this together and he asked for Council's support.

Mario Kokolis, resident, stated the industry is of major concern. He was concerned that it was reported in the newspaper that the city has budgeted for a downfall. The city should

have invested even more in business and industry instead of anticipating a downfall from 2007. City taxes will have to increase when the industry will no longer supports the quality of life that we enjoy. He challenged Council to make that first step--to be more proactive, force the hands of the counties, and put money on the table. He asked that Council look at the industry and find ways to support it the way it supports us.

Mayor Zeidler responded to the speakers that the Council and City of Williamsburg is willing and ready to support the industry and does support the industry. Over \$4 Million of tax collected money, some from the \$2.00 tax, was invested in destination marketing-to the Alliance, WADMAC and CWF, and the city has done so for years; and greater than the counties. She understood this is a difficult time and we need to work together. She clarified that Council did not budget for a downfall. The estimates of collected revenues were lowered because the 2007 money was not going to be here in 2008, but Council did not pull back on marketing money in the budget, or on beautification, or other ways it supports the industry. Council would be interested in hearing suggestions.

No one else wished to speak. The session was closed.

The meeting adjourned at 5:25 p.m.

Approved: October 9, 2008

Jeanne Zeidler, Mayor

Shelia Y. Crist, MMC
Clerk of Council